



4000-01-U

DEPARTMENT OF EDUCATION

Native American Career and Technical Education Program;  
Proposed Waivers and Extension of the Project Period; CFDA  
Number 84.101A

AGENCY: Office of Vocational and Adult Education,  
Department of Education.

ACTION: Notice.

SUMMARY: For 60-month projects funded in fiscal year (FY) 2007 under the Native American Career and Technical Education Program (NACTEP), the Secretary proposes to waive the regulations that generally restrict project periods to 60 months and that restrict project period extensions involving the obligation of additional Federal funds. The Secretary also proposes to extend the current NACTEP project periods through FY 2013. These proposed waivers and extension of the project period would enable the 30 current NACTEP grantees to request and continue to receive Federal funding beyond the 60-month limitation contained in the Department's regulations. Further, the waivers and extension, as proposed, would mean that we would not announce new awards in FY 2012.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit all comments on this notice to Gwen Washington, U.S. Department of Education, 400 Maryland Avenue, SW., room 11076, Potomac Center Plaza, Washington, DC 20202-7241; or Linda Mayo, U.S. Department of Education, 400 Maryland Avenue, SW., room 11075, Potomac Center Plaza, Washington, DC 20202-7241.

If you prefer to send your comments by email, use one of the following addresses: [gwen.washington@ed.gov](mailto:gwen.washington@ed.gov) or [linda.mayo@ed.gov](mailto:linda.mayo@ed.gov). You must include the term "Proposed Waivers and Extension for NACTEP" in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Gwen Washington, by telephone: (202) 245-7790, or by email: [gwen.washington@ed.gov](mailto:gwen.washington@ed.gov); or Linda Mayo, by telephone: (202) 245-7792, or by email: [linda.mayo@ed.gov](mailto:linda.mayo@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. We are particularly interested in

receiving comments on the potential impact that these proposed waivers and extension may have on NACTEP and on potential applicants that would be eligible to apply for grant awards under any new NACTEP notice inviting applications, should there be one.

Eligible applicants for NACTEP are:

- (a) Federally-recognized Indian tribes.
- (b) Tribal organizations.
- (c) Alaska Native entities.
- (d) Bureau-funded schools<sup>1</sup>, except for Bureau-funded schools proposing to use their awards to support secondary school career and technical education programs.
- (e) Consortia of one or more eligible tribes, tribal organizations, Alaska Native entities, or eligible Bureau-funded schools.

During and after the comment period, you may inspect all public comments about these proposed waivers and extension in room 11076 or room 11075, Potomac Center Plaza, 550 12th Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time,

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<sup>1</sup> Section 116(a)(2) of the Carl D. Perkins Career and Technical Education Act of 2006 defines the term "Bureau-funded school" as having the meaning given the term in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021).

Monday through Friday of each week, except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice of proposed waivers and extension. If you want to schedule an appointment for this type of aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

#### Background

Current NACTEP grantees, selected based on the March 23, 2007, NACTEP notice inviting applications published in the Federal Register (72 FR 13770) (March 23, 2007, notice), operate career and technical education programs, as authorized by section 116(a) through (g) of the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act or Act) (20 U.S.C. 2326(a)-(g)). The project period for the 30 NACTEP grantees is scheduled to end in FY 2012. For these projects, the Secretary proposes to waive the requirements of 34 CFR 75.250 and 34 CFR 75.261(c)(2), which limit project periods extending beyond 60 months and restrict project period extensions that involve the

obligation of additional Federal funds. The Secretary also proposes to extend the current project period through FY 2013. The proposed waivers and extension would enable the 30 current NACTEP grantees to request and continue to receive Federal funds beyond the 60-month limitation set by 34 CFR 75.250, for one more year, through FY 2013.

The Secretary makes these proposals because section 9 of the Perkins Act authorizes appropriations for activities under section 116 of the Act through FY 2012 (20 U.S.C. 2307). With the potential for changes in the authorizing legislation for NACTEP beyond 2012, we do not believe it would be advisable to hold a new competition for multi-year awards under NACTEP in FY 2012 for projects that may then operate for just one year. We are generally reluctant to announce a competition under which eligible entities would be expected to proceed through the application process while lacking critical information about the future of the program, and we do not think that it would be in the public interest to do so in this case.

Rather than holding a new competition in FY 2012, we believe that it would be in the public interest and preferable for NACTEP for us to review requests for FY 2012 continuation awards from the 30 current grantees selected based on the March 23, 2007, notice and to extend currently

funded projects, for one more year, through FY 2013. In lieu of announcing a new competition for this program in 2012, the Secretary proposes to waive the requirement in 34 CFR 75.250, which limits project periods to 60 months, and in 34 CFR 75.261(c)(2), which restricts project period extensions involving the obligation of additional Federal funds.

With these proposed waivers and extension of the project period, currently-funded NACTEP grantees selected based on the March 23, 2007, notice inviting applications could be continued through the FY 2013 budget and project period and we would not announce a new NACTEP competition in 2012.

If these proposed waivers and extension of the project period are announced by us in a final notice, the requirements applicable to continuation awards for current NACTEP grantees selected based on the March 23, 2007, notice inviting applications and the requirements in 34 CFR 75.253 would apply to any continuation awards sought by current NACTEP grantees. If we announce these waivers and extension as final, we will base our decisions regarding continuation awards on the program narratives, budgets, budget narratives, and program performance reports submitted by current grantees, and the requirements in 34

CFR 75.253. Any activities to be carried out during the year of the continuation award would have to be consistent with, or be a logical extension of, the scope, goals, and objectives of each grantee's application as approved in the 2007 NACTEP competition. If we publish these proposed waivers and extension as final, we would award continuation grants based on information provided to us by each grantee, indicating that it is making substantial progress performing its NACTEP grant activities.

The proposed extension of the project period and waivers of 34 CFR 75.250 and 75.261(c)(2) would not exempt the current NACTEP grantees from the appropriation account-closing provisions of 31 U.S.C. 1552(a), nor would they extend the availability of funds previously awarded to current NACTEP grantees. As a result of 31 U.S.C. 1552(a), appropriations available for a limited period may be used for payment of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the U.S. Treasury Department and is unavailable for restoration for any purpose (31 U.S.C. 1552(b)).

Regulatory Flexibility Act Certification

The Secretary certifies that the proposed waivers and extension would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed waivers and extension are the 30 grantees selected based on the March 23, 2007, notice currently receiving Federal funds.

The Secretary certifies that the proposed waivers and extension would not have a significant economic impact on these entities because the proposed waivers and extension impose minimal compliance costs to extend projects already in existence, and the activities required to support the additional year of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

#### Paperwork Reduction Act of 1995

This notice of proposed waivers and extension does not contain any information collection requirements.

#### Intergovernmental Review

The NACTEP is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on



request to either of the contact persons listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at:

[www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

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Program Authority: 20 U.S.C. 2326(a) through (g).

Dated: February 13, 2012

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Brenda Dann-Messier,  
Assistant Secretary for  
Vocational and Adult Education.

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